tagonism; and the governing principles of one system being as little satisfactory as those of the other, in their respective applications, made the maxim, "no wrong without a remedy," extremely problematical. Whereas now, the rule in equity is really the rule in law, (*Lutscher* v. *The Comptoir D'escompte De Paris*, L. R. 1. Q, B. D., 709), formerly the rule in law was not the rule in equity. Then we were taught, *Equitas sequitur legem*," now we believe, *Lex sequitur equitatem*," more properly, perhaps, *Equitas lex est, et lex est equitas.* For this identity we are indebted to the Administration of Justice Act, 1873 (36 Vict. cap. 8, and see *Kennedy* v. *Bown*, 21 Gr. 95), and so the "last hair of Lord Eldon's wig" perished, virtually, by an earlier Act of Mr. Mowat than the new Judicature Bill.

At law, for instance, as a general principle, it was not possible to sell a thing which had no existence (Parsons on Contracts, pp. 522, 523.) "It is a common learning in the law," it has been said, "that a man cannot grant or charge that which he hath not," (Perkins tit. Grants, sec. 65) or as Lord Bacon said, "The law doth not allow of grants, except there be a foundation of interest in the grantor; for the law will not accept of grants of titles, or of things in action, which are imperfect interests: much less will it allow a man to grant or encumber that which is no interest at all but merely future" (see *Lunn* v. *Thornton*, 1 C. B., 379). This impossibility commends itself to reason, for how, it may be asked, can a contract operate upon something which is nothing—*Nemo dat quod non habet.* At law there required to be an actual or potential ownership (*Grantham* v. *Hawley*, Hob. 132), and how could either exist when there was nothing to own; for, even in potential ownership, the article did not exist, the ownership relating to the article granted, and not to that out of or from which the article granted arose or was produced. Thus, for example, the case of actual ownership is illustrated by one being possessed of and granting wool already sheared from his sheep; and the case of potential ownership by the grant of wool to be taken from sheep already his. The latter grant is only sustained because there is a foundation for an interest *in futuro*, which does not exist in possibility only (Lord Ellenborough, C. J., in *Robinson* v. *Macdonnell*, 5 M. & S. 228). When, however, at the time of the grant the thing granted has a potential existence, it would seem the grant was not made inoperative by any limit of time within which the thing granted was to come into existence, for a man could grant all the wool of his sheep for seven years, and the grant was good (Perkins; tit. Grants, § 90).

On the other hand, when there existed neither actual nor potential ownership in the subject matter of the grant, the grant in law was bad, though it must not be forgotten, in the case of non-existing property, that an executory contract might legally be entered into (*Hope* v. *Hayley*, 5 E. & B. 830; *Chidell* v. *Galesworthy*, 6 C. B. N. S. 471), but in respect thereof no bill would lie for specific performance (per Martin B., *Belding* v. *Read*, 3 H. & C. 955.

It is not difficult to see that from this state of the law, the evident intention of parties was often defeated, and so, though a prophetic conveyance without more could not be made, yet such a conveyance was legalized even at law, "*interveniente novo actu*:" but the "*novus actus*" must, without doubt, declare the intention of the parties to be the confirmation of a prior sale; and until some tangible act upon the part of vendor or vendee, acquiesced in by both parties, has been performed, the vendee has but a "*jus ad rem*," and the intervening of the rights of others will be to his prejudice.

Thus, then, at law, things *in posse* were not assignable, but to this rule came the exception, that when the thing assigned had a potential existence, the grant was good, and the further exception in favour of the grant, when